

UNITED STATES DISTRICT COURT FOR THE RECEIVED
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2006 MAY 26 P 4: 08

JESSIE TOMPKINS Sr.

Plaintiff,

VS

JUDGE JOHN JONES,
JUDGE PATRICIA WARNER,
JESSICA LARRY,
AUDRA BEASLEY,
CAPT. CHRISTOPHER LOWERY,
CITY OF MONTGOMERY,
MONTGOMERY COUNTY YOUTH
FACILITY, BETTY BARKER AND
JULIANNA TAYLOR.
Defendants.

PLAINTIFF'S JESSIE TOMPKINS MOTION IN OPPOSITION
TO DEFENDANT JULIANNA TAYLOR'S
MOTION TO DISMISS

Comes now the plaintiff Jessie Tompkins and submits the following response and objection to the defendants motion to dismiss:

1. On or about 11, 2005 the defendant was appointed by the State of Alabama pursuant to Code of Alabama, Section **26-2A-52, at all time the defendant was hired and acting in a official state capacity, under title 42 Section 1983. Therefore, adopting the following :**

Section 26-2A-52

Guardian ad litem.

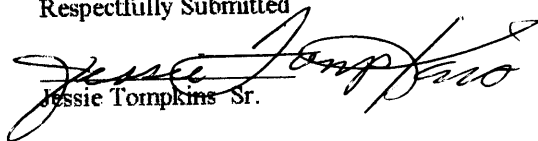
At any point in a proceeding, a court may appoint a guardian ad litem to represent the interest of a minor or other person if the court determines that representation of the interest otherwise would be inadequate. If not precluded by conflict of interests, a guardian ad litem may be appointed to represent several persons or interests.

(Acts 1987, No. 87-590, p. 975, §1-403.) Code of Alabama.

2. Regardless of whether the action was governmental or not. Unlike claims brought under the Fourteenth Amendment, private entities are liable under 42 U.S.C. 1983, **42 U.S.C. 2000d (1) (7) and 42 U.S.C. 1681 without a showing of state action, as long as they are a recipient of federal funds. See Horner v. Kentucky High Sch. Athletic Ass'n, 43 F.3d 265, 271 (6th Cir. 1994).**
3. And the defendant was properly served on May 8th 2006 and was requested to answer within 20 days and on May 16th 2006, the defendant filed her motion to dismiss.

WHEREFORE, the plaintiff requests that the defendants motion to dismiss be denied,

Respectfully Submitted


Jessie Tompkins Sr.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the attached motion have been filed on all parties of record, on this 25 day of May 2006

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Jessie Tompkins